

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No.187/97

New Delhi, this the 14th day of July, 1998

HON'BLE SHRI N.SAHU, MEMBER(A)
HON'BLE DR.A.VEDAVALLI, MEMBER(J)

Shri Om Pal Singh,
Ex. Constable No.2175/L,
Son of Shri Lal Singh,
Village & P.O. Silawar,
District Muzaffar Nagar,
Uttar Pradesh.

....Applicant

(By Sh.S.P.Sharma, Advocate alongwith applicant)

Versus

1. The Commissioner of Police(Delhi),
Delhi Police Force,
Headquarters, I.P. Estate,
New Delhi.

2. The Deputy Commissioner of Police,
(Prove. & Lines),
Through Police Headquarters,
I.P. Estate, New Delhi.

....Respondents

(By Advocate: None)

O R D E R(ORAL)

BY HON'BLE SHRI N.SAHU, MEMBER(A)

The relief prayed for in this O.A. filed on 22.1.97 is directed against the order dated 7.2.96 rejecting the representation of the applicant as time barred. It is prayed that a direction be issued to the respondents to grant the same relief as was granted by the Central Administrative Tribunal in T-950/85 in the case of Dharam Pal & ors. as affirmed by the Hon'ble Supreme Court by judgement dated 4.5.90 in C.A.No.3376/3382/1988: Lieutenant Governor of Delhi versus Dharam Pal & ors. The further prayer is for reinstatement of the applicant and allowing him the consequential benefits.

Reinstatement

2. The undisputed facts leading to the present O.A. are that the applicant joined Delhi Police as temporary constable on 18.2.64. He continued in service upto 8.5.67. On that date his services were terminated due to his participation in Police Agitation of 1967 under Rule 5 of CCS (Temporary Service) Rules, 1965.

3. The main ground taken by the respondents is that he had filed a representation after a gap of 30 years. His representation was rejected by the Commissioner of Police on 7.2.96 being time barred. Accordingly it is prayed that this application, hit by limitation, deserves to be dismissed at the threshold.

4. We have also perused the application for condonation of delay dated 29.9.97. In this petition the applicant referred to Dharam Pal Singh's case (supra) subsequently confirmed by the Apex Court, wherein the observation of the Tribunal was that it was the duty of the respondents to consider similarly placed cases suo moto. Reference was also made to Jaipal Singh's case decided by the Tribunal on 4.5.89 and upheld by the Supreme Court on 23.3.92 and to Bishamber Singh's case decided by the Tribunal on 25.8.93.

5. The applicant contests the rejection of his representation by the respondents as time barred, he being a person similarly placed as others who secured relief earlier. At para 14 the

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applicant says that the quashing of termination order became final in May, 1990. But the respondents allegedly held out an assurance to the applicant (not proved) to consider his case after seeing the outcome in other cases. For this purpose, the applicant relied on Jaipal Singh's case pronounced in March, 1992 and Bishamber Singh's case pronounced by the Tribunal in August, 1993. In view of the above background, the applicant prayed for condonation of delay.

6. We have carefully considered the application for condonation of delay. We notice that by an order dated 9.5.67, the services of the applicant as also four others were terminated by giving them pay plus allowances for one month which was the pay equivalent to the notice period. The question at issue is whether this O.A. filed on 22.1.97, after 30 years, can be admitted by the Tribunal and whether the delay in filing this O.A. can be condoned. We are of the view that his O.A. is hopelessly barred by limitation. Although similarly placed persons were given relief by the order of the C.A.T. dated 26.11.87, we have to note that as the cause of action had arisen 3 years prior to coming into force of the Central Administrative Tribunal's Act, 1985, there is an absolute bar against entertaining any such application. This prohibition cannot be got round unless there is a clear subsequent event which legally brings into existence a fresh cause of action. We are of the view that there is no such

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legal justification in this case. In the case of Bhoop Singh (1992 (21) ATC 675, the facts are almost identical. That was also a case of a dismissed constable. Other constables have come to the court on the ground that they are similarly placed. The Supreme Court held that this plea will not be allowed to override the mandatory provisions relating to limitation. If a person has slept over his right for so long, he cannot seek the remedy later. While repelling the unexplained delay, the Hon'ble Supreme Court held:

"If the petitioner's contention is upheld that laches of any length of time is of no consequence in the present case, it would mean that such Police Constable can choose to wait even till he attains the age of superannuation and then assail the termination of his service and claim monetary benefits for the entire period on the same ground and that would be a startling proposition. In our opinion, this cannot be true import of Article 14 or the requirement of the principle of non-discrimination embodied therein which is the foundation of petitioner's case."

7. In the case of Rattan Chandra Samanta v. Union of India (1994 (26) ATC 228), the Hon'ble Supreme Court had held that as no explanation has been given as to why the petitioners did not approach till 1990 held that "Delay in itself deprives a person of his remedy available in law. In the absence of any fresh cause of action or any

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legislation, a person who has lost his remedy by lapse of time, he loses his right as well." Regarding the laches in filing writ petition under Article 226, Hon'ble Supreme Court in the judgement in the case of High Court of M.P. v. Mahesh Parshad (1990 SCC (L & S) 278) held that on June, 1986, the first representation of judicial official was considered by the Full Court and rejected. Even though, the second representation filed 4 years thereafter was again considered by the Full Court and rejected, the ratio of the judgement is that, merely because a subsequent representation is considered by the authority and rejected, limitation does not get extended, if the claim is barred by limitation." In our opinion, the representation submitted by the applicant after his claim had been barred by limitation will neither extend nor revive the period of limitation. We are fortified in our view by a decision of the Principal Bench in M.K. Bala Chandran Pillai v. Central Administrative Tribunal (1995 (29) ATC 450). Similar view has been expressed by the Madras Bench of the Tribunal in case Satya Naraina v. Directors of CSIR (1995 (31) ATC 349).

3. Let us view this from a different angle on the facts of this case. Ten years before filing of this O.A., a similarly placed constable Dharam Pal secured relief from the C.A.T. We have not been explained as to why the applicant did not also wake up within a reasonable time thereafter. His representation was dated 3.4.95. We do not know as

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to why he had kept quiet for a period of 8 years before filing this representation. What the applicant has stated in the reasons for delay is that at periodic intervals, other similarly placed constables had secured justice. He referred in this regard to the decisions in Jaipal Singh's case decided in March 92 and Bishamber Singh's case decided in August, 1993. Even if we accept both these dates as the starting point, we still do not know as to why the applicant slept over the matter for a period of more than 3 years before filing a representation. If we allow this O.A., we would be opening the gates for any affected party to revive any concluded matter on the ground that a similarly placed person has secured some relief somewhere. We would be defeating in spirit and substance the provisions of law on limitation if the applicant's claim in this regard is allowed to prevail.

9. In the case of P.K. Ramachandran Vs. State of Kerala & another, JT 1997(8) SC 189 their Lordships have held that the Courts have no powers to extend the period of limitation on equitable grounds.

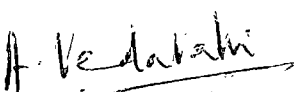
10. In view of the above discussion, we are satisfied that the reasons given for condonation of delay are not satisfactory and are not acceptable. We, therefore, dismiss this O.A. at the threshold on the ground of limitation. No costs.

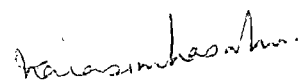
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11. After the above order was dictated, the learned counsel for the applicant filed written notes of arguments. The applicant's counsel cited the decision in Shish Pal vs. State of Haryana & ors. (1991 (4) SLR 9) wherein discharge after more than three years and four months of service was quashed. The view taken in this decision has been upheld by Hon'ble Supreme Court in the case of Daya Ram Dayal vs. State of M.P. (AIR 1997 SC 3269). It states that it is the duty of the respondents to consider the applicant's case suo moto. In view of Dharampal Singh's case (supra) and the assurance given in Parliament, it is submitted that the Govt. is not justified in rejecting the representation on the ground of delay.

12. We have already met these points in an elaborate discussion of the facts and the legal position in the previous paragraphs. The contentions of the applicant have no merit.

O.A. is dismissed. No costs.


(Dr.A.Vedavalli)
Member(J)


(N. Sahu)
Member(A)

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